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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,742	09/22/2000	Charles Cameron Brackett	15-UL-5580	9983
44702	7590	01/27/2006		
OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			EXAMINER HENEGHAN, MATTHEW E	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/667,742	Applicant(s) BRACKETT, CHARLES CAMERON	
	Examiner Matthew Heneghan	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-13 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-13 and 30-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7 November 2005 has been entered.

2. Claims 1-5, 8-13, and 30-36 have been examined.

### ***Claim Rejections – 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-5, 8-13, and 30-36 are rejected under 35 U.S.C. 101 because claims 1 and 30 are improper definitions of an apparatus. Each claim recites an apparatus that includes method steps.

Claims 2-5, 8-13, and 31-36 depend from rejected claims 1 and 30, and include all the limitations of those claims, thereby rendering those dependent claims as improper.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5, 8-13, and 30-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said monitoring step" in page 3, line 1. There is insufficient antecedent basis for this limitation in the claim; For the purposes of this action, the monitoring means in claim 1 are being treated such that the computer is programmed to have a monitoring step, as is recited in claim 30.

Claims 1 and 30 each claim an apparatus having method steps; it is therefore unclear what the claims are intended to encompass.

Claims 2-5, 8-13, and 31-36 depend from rejected claims 1 and 30, and include all the limitations of those claims, thereby rendering those dependent claims indefinite.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 8, 9, 11, 12, 13, 30-32, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,269,379 to Hiyama et al. in view of U.S. Patent No. 6,694,434 to McGee et al. further in view of U.S. Patent No. 5,191,611 to Lang further in view of U.S. Patent No. 5,319,776 to Hile et al.

As per claim 1, Hiyama discloses a system for acquiring images from an endoscope (see column 3, lines 54-55). Each image constitutes a frame. The system has memory for storing images and operating code, which is loaded from a hard disk at power-up (see column 4, lines 3-5 and column 6, lines 30-32), a viewing monitor for displaying frames (see column 4, lines 28-31).

Hiyama does not disclose the use of an encrypted registry or measures to directly protect against computer viruses, but notes that it is desirable to protect against viruses (see column 8, lines 66-67).

McGee discloses that processes be checked against a registry (see column 5, lines 13-20) before being started (see column 4, lines 20-23) and that registry information is signed (encrypted) using a private key (see column 4, lines 35-39), and authenticated (decrypted) using a public key (see column 5, lines 10-12), and further suggests that it would be desirable to provide a mechanism that reduces the likelihood

of an unauthorized application being run, such as one that contains a virus (see column 2, lines 42-48).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement security on the system of Hiyama in the manner disclosed by McGee, as it would be desirable to provide a mechanism that reduces the likelihood of an unauthorized application being run, such as one that contains a virus.

Since it only uses signatures, the system of Hiyama and McGee does not search the decrypted data for directory entries.

Lang discloses a system for protecting material on storage media that includes the encrypting of the entire directory, and the decrypting of the directory before searching it (see column 11, lines 57-66), and further notes that it is a level of protection that users can only see and use the directories for the zones for which they have access privileges (see column 15, lines 33-36).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to encrypt the entire directory and then decrypt it before searching it, as disclosed by Lang, so users can only see and use the directories for the zones for which they have access privileges.

Hiyama, McGee, and Lang also do not disclose a means by which a file may be tested for a computer virus before being installed on a hard disk.

Hile discloses a computer virus safeguard system wherein a file being copied to a hard disk is tested for virus signatures before being copied to the hard disk (see

column 4, lines 23-47). Hile further suggests that systems that do not do this cannot totally prevent a virus from attacking or spreading (see column 1, lines 51-54).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Hiyama, McGee, and Lang by testing a file being copied to a hard disk for virus signatures, as disclosed by Hile, as systems that do not do this cannot totally prevent a virus from attacking or spreading.

Regarding claims 4, 8, and 9, McGee discloses that the system checks if the application being started is on the registration list, and, if not, notifies the user about the potential virus and gets instructions using a graphical user interface (see McGee, column 7, line 63 to column 7, line 9 and column 7, lines 41-65), and kills the process if the user does not give permission (see McGee, figure 3a).

Regarding claims 11 and 34, Hiyama, McGee, and Lang do not disclose an option to delete files from storage after discovering that they may be infected.

Hile further discloses a virus safeguard wherein infected files are deleted from storage (see column 7, lines 17-44), and further suggests that prevents the virus from spreading to other computer systems that communicate with that system (see column 2, lines 4-11).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to further modify the invention of Hiyama, McGee, and Lang by adding an option to delete files from storage, as disclosed by Hile, in order to prevent the virus from spreading to other computer systems that communicate with that system.

Regarding claims 12 and 13, after the user is notified that an application is requesting to execute (see McGee, column 8, lines 42-45), a second signal is sent to the user asking whether execution privileges should be granted (see McGee, column 8, lines 45-51), resulting in the application being registered.

Hiyama, McGee, Lang, and Hile do not disclose the use of actuators in the user interfaces.

Regarding all limitations involving the use of virtual actuators in user interfaces, Official notice is given that the use of actuators for user dialog in graphical user interfaces is well-known in the art, as they make programs more user-friendly.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to implement the invention of Hiyama, McGee, Lang, and Hile using actuators in the user interfaces, in order to make the system more user-friendly.

Regarding claims 30-32, 35, and 36, the system disclosed by Hiyama constitutes a computer.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,269,379 to Hiyama et al. in view of U.S. Patent No. 6,694,434 to McGee et al. further in view of U.S. Patent No. 5,191,611 to Lang further in view of U.S. Patent No. 5,319,776 to Hile et al. as applied to claim 1 and further in view of U.S. Patent No. 5,881,151 to Yamamoto.

Hiyama, McGee, Lang, and Hile do not disclose checking for checksums or file size.



The virus diagnosing system disclosed by Yamamoto checks for a file using techniques including checksums and size checks before executing a program (see abstract), and Yamamoto further suggests that this enables a discrimination to be made to minimize the damage of the virus (see column 2, line 66 to column 3, line 2).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to further modify the invention of Hiyama, McGee, Lang, and Hile by checking for checksums and size, as disclosed by Yamamoto, to minimize the damage of the virus.

7. Claims 5, 10, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,269,379 to Hiyama et al. in view of U.S. Patent No. 6,694,434 to McGee et al. further in view of U.S. Patent No. 5,191,611 to Lang further in view of U.S. Patent No. 5,319,776 to Hile et al. as applied to claims 4, 9, and 32, above, and further in view of U.S. Patent No. 6,266,773 to Kisor et al.

Hiyama, McGee, Lang, and Hile do not disclose a log of events.

Kisor discloses a computer security system wherein historical events are compiled, so that the real time activity of a program can be monitored to see whether the real time activity fits within the stored patterns.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Hiyama, McGee, Lang, and Hile by compiling historical events, as disclosed by Kisor, so that the real time activity of a

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program can be monitored to see whether the real time activity fits within the stored patterns.

### ***Response to Arguments***

8. Applicant's arguments, see Remarks, filed 7 November 2005, with respect to the rejections of claims 1 and 30 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lang.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding Applicant's argument that the cited art does not contain a registry file that contains encrypted data representing a list of approved processes, McGee includes a registry file having a list of approved processes that includes an encrypted signature that is representative of those processes and the newly cited Lang shows that it would have been obvious to encrypt the entire list and decrypt it for searching.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,490,684 to Fenstemaker et al. discloses an ultrasound system that includes an encrypted program registry for the purposes of ensuring that a user is authorized to use various features of the system.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday-Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu, can be reached at (571) 272-3859.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(571) 273-3800

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

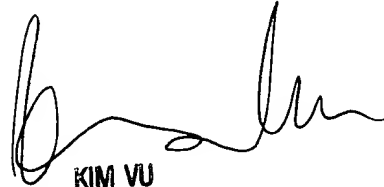
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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEH



January 19, 2006



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